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NOTIFICATION

LA4-3124/58. *Dated, Trivandrum, 22nd November, 1958.*

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

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THE KERALA IRRIGATION BILL, 1958

A
BILL

to provide for the construction, improvement, extension, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess.

Preamble.—WHEREAS it is necessary to provide for the construction, improvement, extension, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess;

BE it enacted in the Ninth Year of the Republic of India as follows:—

PART I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Irrigation Act, 1958.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) "Collector" means the Collector of a district;

(2) "contribution" means the betterment contribution referred to in section 20;

(3) "cultivators' co-operative society" means a co-operative society registered or deemed to be registered under the Travancore-Cochin Co-operative Societies Act, 1951, or the Madras Co-operative Societies Act, 1932, not less than one-third of the members of which are cultivators;

(4) "flood control work" means a work carried out on the banks or in the bed of a river or channel or on other lands, to prevent or relieve flood caused by rainfall, tidal action or river flow;

(5) "Irrigation Officer" means an officer appointed by the Government to perform all or any of the functions of an Irrigation Officer under this Act;

(6) "irrigation work" includes—

(a) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply and storage of water for agricultural purposes;

(b) all works, embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks;

(c) all water courses which are supplied with water from such canals, channels, reservoirs or tanks;

(d) all drainage works, that is to say, canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands or for the reclamation or dewatering of kole lands, kayal lands, kari lands or such other lands;

(e) all works intended for preventing the entry of salt-water into agricultural lands;

(f) all flood control works;

(g) all lands occupied by the Government or a local authority or a cultivator's co-operative society, as the case may be, for the purposes of such canals, channels, reservoirs, or tanks and all buildings, machinery, fences, gates and other erections upon such lands; and

(h) any other work which the Government may declare by notification to be an irrigation work;

(7) "landholder" in relation to any land means the person liable to pay to the Government the public revenue due on the land:

Provided that—

(i) in respect of any land comprised in the holding of a kanomdar or a customary verumpattomdar in the area to which the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), extends, the kanomdar or the customary verumpattomdar, as the case may be; and

(ii) in respect of any land in the possession of a Walawargadar, a Kayemgenidar, a permanent tenant or a Mulgeni tenant in the Kasargode Taluk, such Walawargadar, Kayemgenidar, permanent tenant or Mulgeni tenant, as the case may be,

shall be deemed to be the land-holder in respect of such land;

(8) "lift irrigation work" means an irrigation work by which water is supplied or drained for agricultural purposes with the aid of pumping sets or other mechanical devices;

(9) "local authority" means the Council of the Corporation of the City of Trivandrum, a Municipal Council, a Panchayat or a District Board.

(10) "major irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of over 200 acres of land but shall not include lift irrigation works;

(11) "majority of proprietors" means the proprietors of more than one-half of the acreage benefited by an irrigation work;

(12) "minor irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of over 50 acres of land but not over 200 acres and shall not include lift irrigation works;

(13) "notification" means a notification published in the Gazette;

(14) "petty irrigation work" includes all irrigation works irrigating or useful for the drainage or protection of an extent of not over 50 acres of land but shall not include lift irrigation works;

(15) "prescribed" means prescribed by rules made under this Act;

(16) "proprietor" means the owner of the land and includes the cultivator or person in actual possession of such land;

(17) "cultivator" means a person who cultivates land solely by his own labour or with the help of the labour of the members of his tarwad or family or of hired labourers or both;

(18) a land shall be deemed to be "benefited"—

(i) notwithstanding that the benefit is not enjoyed, provided that the non-enjoyment is not due to any default on the part of the Government;

(ii) notwithstanding the fact that the benefit was enjoyed by percolation of water from an irrigation work and not by direct supply.

(19) "State" means the State of Kerala.

3. *Conferment of powers.*—The Government may, from time to time, by notification, invest any officer or any Irrigation Board constituted under this Act or any member thereof with all or any of the powers or duties conferred or imposed by or under this Act on the Government and shall declare the local limits within which such powers or duties shall be exercised or performed.

PART II

Petty and Minor Irrigation Works

4. *Construction, improvement, extension, repair and maintenance of petty irrigation works.*—(1) Save as otherwise provided in this Act, the construction, improvement, extension, repair and maintenance of all petty irrigation works shall devolve upon the local authority within the local limits of which such petty irrigation works are situated. In any area which lies within the local limits of the Malabar District Board and which lies within the jurisdiction of any Panchayat, the construction, improvement, extension, repair and maintenance of petty irrigation works shall devolve upon that Panchayat:

Provided that the repair and maintenance of petty irrigation works constructed by the Government before the commencement of this Act shall devolve upon the Government; but the Government may, on the request of the local authority concerned within whose jurisdiction the irrigation work lies, transfer such irrigation work to that local authority and thereupon the repair and maintenance of such irrigation work shall devolve upon that local authority:

Provided further that the construction, improvement, extension, repair and maintenance of petty irrigation works benefiting lands situated within the jurisdiction of more than one local authority shall devolve upon the Government:

Provided also that the repair and maintenance of petty irrigation works in local areas where, according to custom, such works are carried out, by the Government, wholly at their cost, may be taken up by the Government.

(2) The Government may grant subsidy, loan or other help, to such extent and subject to such conditions as may be prescribed, to any local authority undertaking any petty irrigation work under sub-section (1).

(3) A local authority may, with the previous sanction of the Government, levy an annual cess on any area benefited by a petty irrigation work constructed by it or transferred to it by the Government.

(4) The Government may levy an annual cess on any area benefited by a petty irrigation work which is owned or requisitioned by them.

(5) The cess under sub-section (3) and sub-section (4) shall be at the rates specified in Part I of the Schedule.

5. *Construction, improvement, extension, repair and maintenance of minor irrigation works.*—(1) Save as otherwise provided in this Act, the construction, improvement, extension, repair and maintenance of all minor irrigation works shall devolve upon the Government.

(2) The Government may, subject to such conditions as may be prescribed, permit any local authority or cultivators' co-operative society to undertake the construction, improvement, extension, repair and maintenance of any minor irrigation work.

(3) The Government may levy an annual cess at the rates specified in Part I of the Schedule on any area benefited by a minor irrigation work which is owned or requisitioned by them.

(4) A local authority or a cultivators' co-operative society may, with the previous sanction of the Government, levy an annual cess at the rates specified in Part I of the Schedule on any area benefited by a minor irrigation work constructed by it.

(5) Nothing in sub-sections (3) and (4) shall apply to minor irrigation works in local areas where, according to custom, the repair and maintenance of such works are carried out by the Government wholly at their cost.

(6) Notwithstanding anything contained in this section, the Government may receive from the landholders benefited by a minor irrigation work constructed by them such portion of the cost of the work as they may determine and the cess leviable in such cases under sub-section (3) on such lands shall be proportionately reduced. The amount recoverable from the landholders under this sub-section shall be in proportion to the extent of lands held by them.

(7) The Government may grant subsidy, loan or other help to such extent and subject to such conditions, as may be prescribed, to any local authority or cultivators' co-operative society undertaking any minor irrigation work under sub-section (2).

6. *Execution of minor irrigation works.*—If, in any local area the Collector, on the application of any proprietor interested in any minor irrigation work or otherwise, is of opinion that a minor irrigation work should be undertaken, he may make such enquiries as he may deem necessary and also cause a plan and an estimate of the work and a specification of the lands likely to be benefited thereby to be prepared. If, after the enquiry and on perusal of the estimate, plan and specification so prepared, the Collector is satisfied that the work should be executed in the public interest, he may order the execution of the work.

7. *Accident to any petty or minor irrigation work.*— (1) If, in the case of any accident being apprehended or happening to any petty or minor irrigation work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Collector may, notwithstanding anything contained in sections 4 to 6, order the execution of such work at the cost of the Government, and, in the case of an irrigation work constructed by or transferred to a local authority or a cultivators' co-operative society, shall forthwith report the action taken by him to the local authority or the cultivators' co-operative society, as the case may be.

(2) The Collector may direct that the cost of any work carried out under sub-section (1) shall, in the case of an irrigation work constructed by or transferred to a local authority or a cultivators' co-operative society, be paid from the funds of the local authority or the cultivators' co-operative Society, as the case may be, within such time as may be fixed by him, by the local authority or the cultivators' co-operative society concerned.

(3) If the expenses which the Collector has directed under sub-section (2) to be paid from the funds of the local authority or the cultivators' co-operative society have not been paid, the Collector may make an order directing the person having the custody of such funds to pay it in priority to any other charge against such funds except charges for the service of authorised loans.

(4) Such person shall, so far as the funds to the credit of the local authority or the cultivators' co-operative society, as the case may be, admit, be bound to comply with such order.

8. *Execution of work for the proper maintenance of petty and minor irrigation works.*— (1) It shall be the duty of the Irrigation Officer to inspect periodically all petty and minor irrigation works situated within the local limits of his jurisdiction and to report to the Collector the condition of those works. If the Collector finds that any work is to be executed for the satisfactory maintenance of any petty or minor irrigation work, he may, in the case of an irrigation work owned or requisitioned by the Government, execute the work at the cost of the Government and, in the case of other irrigation works, require the local authority or the cultivators' co-operative society concerned to execute the work within such time as may be fixed by him.

(2) If, within the time fixed under sub-section (1), the local authority or the cultivators' co-operative society concerned does not execute the work, the Collector may execute the work and may direct that the expense of such execution shall be paid from the funds of the local authority or the cultivators' co-operative society, as the case may be, within such time as may be fixed by him, by the local authority or the cultivators' co-operative society concerned.

(3) If the expenses which the Collector has directed under sub-section (2) to be paid from the funds of the local authority or the cultivators' co-operative society have not been paid, the Collector may make an order directing the person having the custody of such funds to pay it in priority to any other charge against such funds except charges for the service of authorised loans.

(4) Such person shall, so far as the funds to the credit of the local authority or the cultivators' co-operative society, as the case may be, admit, be bound to comply with such order.

9. *Maintenance of field channels.*—Notwithstanding anything contained in this Part, the liability to construct and maintain any field channel in a minor irrigation work shall be that of the cultivators for the benefit of whose lands such work is to be carried out. Where the cultivators fail to construct or maintain any such field channel the Government may execute the construction or maintenance work, as the case may be, and recover the cost incurred for such work or, in the special circumstances of any case, such portion thereof as the Government may deem fit, from the cultivators concerned, as arrears of land revenue under the Revenue Recovery Act for the time being in force.

Explanation.—For the purpose of this section "field channel" means any small water course formed beyond the spout in the main channel or distributory, intended to irrigate blocks of fields not exceeding 25 acres in extent.

PART III

Major Irrigation Works

10. *Construction, improvement, extension, repair and maintenance of major irrigation works.*—The construction, improvement, extension, repair and maintenance of all major irrigation works shall devolve upon the Government.

11. *Procedure for construction, improvement, extension or repair of major irrigation works.*—If, in any local area, the Collector or the Chief Engineer (Irrigation) is satisfied, on the application of any proprietor or otherwise, that any major irrigation work should be constructed, improved, extended or repaired, such officer may cause a plan and an estimate of the work and a specification of the land likely to be benefited thereby to be prepared.

Explanation.—In this section 'Collector', in the case of an irrigation work situated in more than one district, means the Collector of the district in which the major portion of the irrigation work lies.

12. *Government to order execution of major irrigation works.*—(1) The plan, estimate and specification prepared under section 11 shall be forwarded to the Government.

(2) If the Government consider that the execution of the work is necessary in the public interest they may order the execution of such work.

13. *Power to levy cess.*—The Government shall be entitled to levy an annual cess on any land benefited by a major irrigation work, owned or requisitioned by them at the rates specified in Part II of the Schedule.

Explanation.—The right of the Government to levy cess under this section shall not be affected by the fact that the lands are cultivated with crops other than paddy or that the lands are not actually cultivated.

14. *Irrigation Officer to report periodically condition of major irrigation works.*—It shall be the duty of the Irrigation Officer to periodically inspect all major irrigation works and report to the Chief Engineer (Irrigation) the condition of those works. The Chief Engineer may, on being satisfied from the report or from other reliable information that any work is to be executed for the proper maintenance of the work, execute the work at the cost of the Government.

15. *Maintenance of field channels.*—Notwithstanding anything contained in this Part, the liability to construct and maintain any field channel in a major irrigation work shall be that of the cultivators for the benefit of whose land such work is to be carried out. Where the cultivators fail to construct or maintain any such field channel the Government may execute the construction or maintenance work, as the case may be, and recover the cost incurred for such work or, in the special circumstances of any case, such portion thereof as the Government may deem fit, from the cultivators concerned under the Revenue Recovery Act for the time being in force.

Explanation.—For the purposes of this section "field channel" means any small water course formed beyond the spout in the main channel or distributary, intended to irrigate blocks of fields not exceeding 25 acres in extent.

PART IV

Lift Irrigation Works

16. *Lift irrigation works benefiting areas of 10 acres and above up to 50 acres.*—The Government may grant subsidy, loan or other help to such extent and subject to such conditions as may be prescribed to any person who undertakes lift irrigation works benefiting areas of 10 acres and above but not exceeding 50 acres, provided that no subsidy under this section shall be granted unless a third crop is raised by the use of water supplied by such lift irrigation work.

17. *Lift Irrigation works benefiting areas not exceeding 200 acres.*—(1) The Government may grant subsidy, loan or other help to such extent and subject to such conditions as may be prescribed to local authorities or cultivators' co-operative societies which undertake the construction, improvement, extension, maintenance and repair of lift irrigation works benefiting areas not exceeding 200 acres in extent.

(2) A local authority or a cultivators' co-operative society which has undertaken a lift irrigation work under sub-section (1) may levy an annual cess on any area benefited by such irrigation work at the rates specified in Part III of the Schedule.

18. *Lift irrigation works undertaken by Government.*—(1) The construction, improvement, extension, repair and maintenance of all lift irrigation works benefiting an extent of over 200 acres of land shall devolve upon the Government. If the Government are satisfied, on the application of any proprietor or otherwise, that in any local area any new lift irrigation work benefiting an extent of over 200 acres should be constructed or an existing irrigation work owned by the Government should be extended or repaired so as to benefit an extent of over 200 acres of land, they may order such work to be carried out at the cost of the Government.

(2) The repair and maintenance of all lift irrigation works undertaken by the Government before the commencement of this Act shall, irrespective of the area benefited by such work, devolve upon the Government.

(3) It shall be competent for the Government to undertake the construction, improvement, extension, repair and maintenance of any lift irrigation work benefiting an extent of 200 acres or less whenever they deem it necessary, notwithstanding anything contained in sections 16 and 17.

(4) The Government shall be entitled to levy an annual cess on any area benefited by the lift irrigation works referred to in sub-sections (1), (2) or (3) at the rates specified in Part IV of the Schedule.

19. *Lift irrigation works benefiting more than 200 acres undertaken by local authority or cultivators' co-operative society.*—(1) Notwithstanding anything contained in section 18, it shall be lawful for the Government to permit any local authority or cultivators' co-operative society to undertake lift irrigation works benefiting an extent of over 200 acres of land and thereupon the provisions of section 17 with regard to the grant of subsidy, loan or other help by the Government to such local authority or co-operative society shall apply to such cases.

(2) The local authority or cultivators' co-operative society which has undertaken a lift irrigation work under sub-section (1) may levy an annual cess on any area benefited by such irrigation work at the rates specified in Part III of the Schedule.

PART V

Levy of Betterment Contribution

20. *Levy of betterment contribution.*—The Government shall be entitled to levy a betterment contribution, in accordance with the provisions of this Part, from the landholder of any land which, in their opinion, is benefited by the construction, extension or alteration by the Government, whether after the commencement of this Act or at any time before such commencement, but not earlier than 1st January, 1947, of any irrigation work (other than lift irrigation work), the cost of which exceeds thirty thousand rupees.

21. *Amount of betterment contribution.*—(1) The lands benefited by the construction, extension or alteration of any irrigation work falling under section 20 shall be divided into suitable classes by the Government and the annual increase in the gross produce of each class of land consequent on the provision of irrigation facilities shall be estimated :

Provided that all lands which are of the same *taram* and which, judged by their commandability, are so situated as to derive the same amount of benefit from the work shall be placed in the same class.

Explanation.—For the purpose of this sub-section, the expression "taram" with reference to land in any area of the State shall mean the taram as fixed under the Revenue Settlement in force immediately before the commencement of the Land Tax Act, 1955, in that area and in cases where there has been no such settlement, the taran as fixed by the Collector.

(2) The annual increase in the gross produce shall be estimated with reference to the average of the prices prevailing during the five years immediately preceding the date of making such estimate.

(3) Ten times the annual increase in the gross produce estimated under sub-section (1) shall be deemed to be the increase in the capital value of each class of land ; and the contribution payable in respect of such class of land shall be one-half of the difference between the said increase in the capital value and the cost (estimated in the prescribed manner) of making the land fit for advantageous irrigation under the work:

Provided that in the case of lands which were originally under dry cultivation and which, with a view to derive benefit from the work, were brought under wet cultivation, a sum representing the difference between the cost of wet cultivation and the cost of dry cultivation as determined in the prescribed manner, shall be deducted from the increase in the gross produce for the purpose of calculating the increase in the capital value of those lands.

(4) The contribution payable in respect of each class of land expressed in terms of rate per acre shall be published in the Gazette or in such other manner, as may be prescribed:

Provided that the officer authorised in that behalf shall, before determining the contribution under the foregoing provisions of this section publish his proposals in the prescribed manner and shall consider suggestions and objections received within the time allowed.

(5) An appeal shall lie to the prescribed authority against a decision with respect to the contribution published under sub-section (4) and any modification made on such appeal shall be published in the prescribed manner.

(6) An order published under sub-section (4), or where it is modified under sub-section (5), the order published under that sub-section, shall be binding on all persons having interest in the land and shall not be liable to be questioned in a court of law.

22. *Contribution recoverable as arrear of land revenue.*—The contribution payable under this Part in respect of any land shall be deemed to be public revenue due upon the said land; and the land, the buildings upon it and its products shall be regarded as the security for the contribution. When the whole or portion of an instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment or its unpaid portion shall be deemed to be arrears of land revenue and the provisions of the Revenue Recovery Act for the time being in force shall apply to the recovery of the said arrears as they apply to the recovery of the revenue due on the land.

23. *When Contribution becomes payable.*—(1) Contribution shall become payable under this Part on a written notice of demand therefor issued by an Officer authorised by the Government in this behalf being served on the landholder:

Provided that no such notice shall be served until the expiry of two years after the date of provision of irrigation facilities to the land concerned.

(2) For the purpose of sub-section (1), the date of provision of irrigation facilities to a particular area commanded by an irrigation work shall be the date which the Government may, by notification, specify.

(3) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on a successor-in-interest of the landholder or in respect of any instalment of the contribution.

24. *Mode of payment of contribution.*—(1) The contribution payable by a landholder shall be paid by him in twenty equal annual instalments:

Provided that he shall be entitled to pay the entire contribution with a rebate of twenty per cent within a period of two years from the date on which he becomes liable to pay the contribution.

(2) Arrears of instalments of contribution shall bear interest at the rate of 4 per cent per annum and such interest shall

be recoverable as arrears of land revenue under the Revenue Recovery Act, for the time being in force.

25. *Rebate in certain cases.*—If the Government accept any money from any person for the construction, extension or alteration of any irrigation work and such person becomes liable to pay contribution in respect of any land benefited by such construction, extension or alteration, the sum accepted from him shall be credited towards the contribution payable by him.

26. *Right of reimbursement in respect of contribution.*—Where, in respect of a particular land, two or more persons are liable to pay contribution under this Part, nothing in the Part, shall be deemed to affect the right of each such person to reimbursement from the other.

27. *Tenant or mortgagee liable to pay instalment of contribution.*—Notwithstanding anything contained in sections 20, 22, 23, and 24, where any land benefited by an irrigation work falling under section 20 is in the occupation of a tenant under a lease and the lessor is not entitled to enhance the rent either under any law governing the lease or under the contract of tenancy or where such land is in the possession of a mortgagee, the liability to pay the instalment of the contribution falling due during the period of occupation or possession shall be on the tenant or the mortgagee, and the amount so due shall be a charge on the interest of such tenant or mortgagee in the said land and it shall be recoverable from such tenant or mortgagee as an arrear of land revenue under the Revenue Recovery Act for the time being in force and the provisions of sections 20, 23 and 24 shall apply in relation to any such instalment as they apply in relation to an instalment due from a landbolder.

28. *Payment of contribution by person having interest in land.*—Any person having interest in a land may, notwithstanding that he is not the landholder of such land, pay the contribution payable by the landholder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the landholder becomes liable to pay the contribution, be entitled to a rebate of twenty per cent.

29. *Exemption.*—If, in the opinion of the Government, the enforcement of all or any of the provisions of this Part will cause hardship in the case of any class or classes of land in any locality, the Government may, by notification setting out the grounds therefor, exempt, either permanently or for a specified period, such class or classes of land from all or any of the provisions of this Part, subject to such conditions, if any, as the Government may deem fit to impose.

30. *Postponement of recovery of contribution.*—Where there has been a failure of crops in any area, the Government may, notwithstanding anything contained in this Part or the rules made under this Act, postpone, for such period as they may think fit, the recovery of any instalment of the contribution.

Part VI

Special provisions for emergencies and special occasions

31. *Impressment of materials for urgent works or repair.*—(1) Whenever it appears to an Irrigation Officer that unless some work or repair is immediately executed any irrigation, drainage or flood control work would sustain such serious damage as to cause sudden and extensive public injury, such Officer or other person authorised by him in this behalf may enter upon or into any immovable property in the neighbourhood of any such irrigation, drainage or flood control work and take possession of or appropriate and remove any trees and any timber, bamboos, mats, ropes, straw, earth, stones, or other materials found in or upon such property and use the same for the purpose of such work or repair. The Irrigation Officer or other person authorised by him who appropriates and removes any materials as aforesaid shall prepare an inventory thereof and keep it as record with his signature affixed thereto.

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

32. *Payment for the materials taken.*—All persons whose materials may be taken under section 31 shall, as soon as may be reasonably practicable and in any case within 15 days from the date on which the work or repair was completed, be paid by the Irrigation Officer for such materials at 25 per cent in excess of their prevailing market rate and, in case of dispute as to the prevailing market rate, the Irrigation Officer shall at once refer the dispute to the decision of the Collector and such decision shall be final.

33. *Compensation for damage in taking materials.*—Whenever as a result of the removal under section 31 of any trees, bamboos, earth, stone or other materials, any other damage results directly to any person, the Irrigation Officer shall pay or tender payment of such damage, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector and such decision shall be final.

34. *Procedure on failure to contribute cost or labour for work to be done by joint labour.*—(1) Whenever, by local custom or for other good reason, any work connected with irrigation or drainage for purposes of agriculture should be done by the joint labour or cost of the proprietors of all the lands benefited by such work, if any such proprietor fails or neglects to do his share of the work or contribute his share of the cost or labour, it shall be lawful for the Collector, the Punja Special Officer or any other Officer specially authorised by the Government in this behalf, on the application of two or more of the proprietors interested in such work or injured by such failure or neglect, to investigate the matter and pass such order as he deems fit and he may by such order also direct the defaulting proprietor to execute any portion of the work or pay any portion of the cost of the work. If the order

directs that the defaulting proprietor shall execute a portion of the work, it shall distinctly specify the portion of the work to be executed, the time within which it should be done and the estimated cost of such work. On the defaulting proprietor refusing or failing to execute the work within the time prescribed in the order, the cost of the work may be recovered from such defaulter and the work executed under the orders of the Collector, the Punja Special Officer or such other Officer specially authorised as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for any of the proprietors to do the work or to contribute the cost or labour, which the defaulting proprietor or proprietors should have done or contributed, and, in case he has so done or contributed, after giving notice to the defaulting proprietor or proprietors, he may apply to the Collector, the Punja Special Officer or any other Officer specially authorised by the Government in this behalf, to order the defaulting proprietor or proprietors to compensate him for the reasonable cost or labour incurred by him. The Collector, the Punja Special Officer or such other Officer specially authorised as aforesaid may thereupon give notice to the defaulting proprietor or proprietors, hear him if he appears and make such other investigations as he thinks necessary and order the defaulting proprietor or proprietors to pay a sum of money as would be, in the opinion of the Collector, the Punja Special Officer or such other Officer specially authorised as aforesaid, sufficient compensation for such reasonable cost or labour.

(3) (a) Any party aggrieved may appeal to the Government or to any Officer specially authorised by the Government in this behalf, by notification, against any order passed by the Collector, the Punja Special Officer or the Officer specially authorised under sub-section (1) or sub-section (2), and the Government or such other Officer, as the case may be, may thereupon pass such orders as they or he, think or thinks just and reasonable after giving notice to the opposite party and hearing him if he appears.

(b) It shall be lawful for the Government to revise any order of the Collector, the Punja Special Officer or the Officer specially authorised made under sub-section (1) or sub-section (2) or clause (a) of this sub-section and pass such orders as are in their opinion just and reasonable.

(4) Whenever two or more proprietors of a Punja Padasekharam or Kole Padavu apply to the Collector, the Punja Special Officer or any other Officer authorised by the Government in that behalf to arrange for dewatering such Punja Padasekharam or Kole Padavu for the purpose of paddy cultivation, it shall be lawful for the Collector, the Punja Special Officer or such other Officer to arrange the dewatering of such Punja Padasekharam or Kole Padavu and to recover the cost thereof from the proprietors. The Collector, the Punja Special Officer or such other Officer arranging the dewatering work or any

person authorised by him to execute such work shall have the power to enter upon any land and instal any machinery for the purpose of dewatering and execute any temporary work incidental to the dewatering.

(5) Notwithstanding anything contained in sub-sections (1) and (4), the Collector, the Punja Special Officer or the Officer authorised shall not execute any work under the aforesaid sub-sections if the majority of the proprietors to be benefited by the work intimate the Collector, the Punja Special Officer or the Officer authorised, in writing that they do not want the work to be done.

(6) The Collector, the Punja Special Officer or the Officer authorised may exercise such powers and perform such duties, as may be prescribed, for the collective benefit of the majority of the proprietors of lands, in matters connected with irrigation.

(7) Any sum of money payable under the provisions of this section may also be recovered from the defaulting proprietor as arrears of land revenue under the Revenue Recovery Act for the time being in force and, where the amount is due in respect of work done under sub-section (2), it shall be paid to the party entitled to it.

Illustration.—The putting up of ring bunds or draining of water in *Punja padams* in Kuttanad or Kole lands in Trichur taluk are instances of works contemplated in this section.

35. *Declaration of flood zones by Government.*—(1) The Government may, by notification, declare any area likely to be affected with flood as a flood zone.

(2) The Government may, by rules, regulate the construction of buildings, embankments and other structures in any flood zone.

(3) If any person, in contravention of the rules made under sub-section (2), constructs any building, embankment or other structure it shall be competent for the Government to remove such building, embankment or other structure without payment of any compensation. The cost of such removal shall be recoverable from such person as arrears of land revenue under the Revenue Recovery Act for the time being in force.

PART VII

Regulation of water supply

36. *Distribution of water from irrigation works.*—(1) The distribution of water of all irrigation works owned or requisitioned by the Government shall be regulated by such rules or orders as may be prescribed or issued by the Government from time to time.

(2) The distribution of water from all irrigation works owned by or transferred to a local authority or a cultivators' co-operative society shall be regulated by such bye-laws as may be framed in that behalf by such local authority or cultivators' co-operative society.

Part VIII

Acquisition and Requisitioning of Irrigation Works and Acquisition of Land for Private Irrigation Works.

37. *Power to acquire or requisition irrigation works.*—Where the Government are of opinion that an irrigation work belonging to any person should be acquired or requisitioned by them for the purpose of affording better irrigation facilities to cultivators or for the more equitable distribution of water for irrigation purposes, the Government may acquire or requisition the irrigation work, as the case may be.

38. *Procedure for acquiring irrigation works*—(1) Before acquiring any irrigation work under section 37, the Government shall publish a notification specifying the particulars of the works proposed to be acquired and the grounds for the acquisition, and calling upon the owner or any person interested in such work, to show cause why the irrigation work should not be acquired. Notice to the same effect shall also be served upon the owner or such other persons known or believed to be interested therein. The owner or any person interested may, within 15 days of the date of the publication of the notification or date of service of the notice, whichever is later, prefer objections if any, against the proposed acquisition.

(2) Where a notification has been published under sub-section (1) it shall be lawful for any officer, either generally or specially authorised by the Government in this behalf, and his subordinates and workmen to enter upon, inspect, and take measurements of such work.

(3) After the publication of the notification under sub-section (1) it shall not be lawful for the owner of the irrigation work or any other person, to transfer or structurally alter the irrigation work.

(4) After considering the objections, if any, preferred under sub-section (1) and after giving the parties an opportunity of being heard, if the Government are satisfied that the irrigation work should be acquired, they may acquire the work by publishing a notification to that effect.

(5) If the Government are satisfied that the acquisition of the irrigation work is not necessary they may withdraw from the acquisition by publishing a notification to that effect.

(6) Where a notification under sub-section (4) is published the irrigation work shall, on and from the date of publication of such notification, vest absolutely in the Government free from all encumbrances.

39. *Procedure for requisitioning of Irrigation works*—(1) Before requisitioning any irrigation work, the Government,—

(a) shall call upon the owner or any other person who may be in possession of the irrigation work, by notice in writing, specifying therein the purpose of the requisition, to show cause, within 15 days of the service of such notice on him, why the irrigation work should not be requisitioned ; and

(b) may, by order, direct that neither the owner of the irrigation work nor any other person shall transfer or structurally alter the irrigation work till such time, not exceeding three months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the irrigation work or in possession thereof, the Government are satisfied that it is necessary or expedient so to do, they may, by order in writing, requisition the irrigation work and may make such further orders as appear to them to be necessary or expedient in connection with the requisitioning.

40. *Release from requisitioning.*—(1) The Government may at any time release from requisition any irrigation work requisitioned under this Act and shall, as far as possible, restore the irrigation work in as good a condition as it was when possession thereof was taken, subject only to the changes caused by reasonable wear and tear and irresistible force.

(2) Where any irrigation work is to be released from requisition, the Government may, after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify, by order in writing, the person to whom possession of the irrigation work shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the irrigation work to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the irrigation work, but shall not prejudice any rights in respect of the irrigation work which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any irrigation work is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause a notice declaring that the irrigation work is released from requisition, to be published in the Gazette.

(5) When a notice referred to in sub-section (4) is published in the Gazette, the irrigation work specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the

person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the irrigation work for any period after the said date.

41. *Power to acquire requisitioned irrigation work.*—(1) Where any irrigation work is subject to requisition, either under this Act or under the Travancore-Cochin Requisitioning and Acquisition of Property Act, 1955, the Government may, if they are of opinion that it is necessary to acquire the irrigation work for a public purpose, at any time acquire such irrigation work by publishing in the Gazette a notice to the effect that the Government have decided to acquire the irrigation work in pursuance of this section:

Provided that before issuing such notice the Government shall call upon the owner of, or any other person who, in the opinion of the Government, may be interested in, such irrigation work, to show cause why the irrigation work should not be acquired; and after considering the cause, if any, shown by the owner or such other person interested in the irrigation work and after giving the parties an opportunity of being heard, the Government may pass such orders as they deem fit.

(2) When a notice as aforesaid is published in the Gazette, the requisitioned irrigation work shall, on and from the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such irrigation work shall end, notwithstanding anything contained in the Travancore-Cochin Requisitioning and Acquisition of Property Act, 1955.

42. *Principles and method of determining compensation in cases where irrigation work is acquired or requisitioned.*—(1) Where any irrigation work is acquired or requisitioned under this Act, the Government shall pay compensation to the owner of the irrigation work and the amount of compensation shall be determined by the Collector in the manner and in accordance with the principles hereinafter set out.

(2) The compensation payable for the acquisition of an irrigation work shall be,—

(i) in the case of a petty or minor irrigation work, ten times the annual cess which the Government would be entitled to levy, after the acquisition, on the lands that would be benefited by the irrigation work;

(ii) in the case of a major irrigation work, eight times the annual cess which the Government would be entitled to levy, after the acquisition, on the lands that would be benefited by the irrigation work.

If, after the issue of a notification under sub-section (1) of section 38, the owner of the irrigation work causes any structural alterations to the irrigation work thereby causing damage

to that work, the cost that would be required to restore the irrigation work to its original condition shall be deducted from the amount of compensation payable under this sub-section.

(3) The amount of compensation payable for the requisitioning of an irrigation work shall be a recurring payment in respect of the period of requisition of a sum equal to the amount of water cess which the Government would be entitled to levy, after the requisition, on the lands benefited by the work under the provisions of this Act, after deducting the maintenance expenses incurred by the Government:

Provided that, no amount exceeding fifty per cent of the water cess shall be deducted as maintenance expenses under this sub-section.

(4) From every decision of the Collector as regards the amount of compensation or its apportionment, an appeal shall lie to the Subordinate Judge's Court within whose jurisdiction the irrigation work lies. The decision of the Subordinate Judge on such appeal shall be final.

43. *Payment of compensation relating to irrigation work.*— The amount of compensation payable under section 42 shall, subject to any rules made under this Act, be paid by the Government to the person or persons entitled thereto in such manner and within such time as may be specified in the order determining the compensation.

The amount of compensation payable shall carry interest at the rate of 6 per cent per annum from the date of the order of the Collector.

44. *Collector to have certain powers of civil courts.*— The Collector while holding an inquiry under section 42 shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office; and

(e) issuing commissions for examination of witnesses.

45. *Service of notice and orders.*—(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Gazette;

(b) in the case of any notice or order affecting an individual, corporation or firm, be served in the manner provided for

the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule to the Code of Civil Procedure, 1908 ; and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or, failing service by these means,

(iii) by registered post.

(2) Where the ownership of the irrigation work is in dispute or where the persons interested in the irrigation work are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the irrigation work to which it relates.

46. *Bar of jurisdiction of civil courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government or the Collector is empowered by this Part to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

47. *Transfer of irrigation work.*—The Government may transfer any irrigation work acquired or requisitioned by them to any local authority or cultivators' co-operative society on such conditions and terms as may be fixed by the Government.

48. *Acquisition of land for private irrigation work.*—(1) Any person desiring to construct a new irrigation work for irrigating his lands may apply in writing to the Collector stating,—

(i) that he has been unable to come to terms with the owners of the lands on which such work has to be constructed or through which it will pass;

(ii) that he desires the Collector, on his behalf and at his cost, to do all things necessary for acquiring so much of the said lands as will be necessary for such irrigation work; and

(iii) that he is able to defray all costs involved in acquiring such land and constructing such work.

(2) If the Collector considers—

(a) that the construction of such a work is necessary;

(b) that the statements in the application are true; and

(c) that the construction of the irrigation work will result in the increase of food production and therefore serve a public purpose,

he may call upon the applicant to make such deposit, as he considers necessary, of any compensation which he may consider likely to become due, and, upon such deposit being made, he may initiate proceedings for the acquisition of the lands under the provisions of the Land Acquisition Act for the time being in force, as if the land were required for a public purpose.

(3) Where any land has been acquired for a private irrigation work by the Government under sub-section (2), the person for whose benefit the land was acquired shall be bound to utilise the land for the purpose for which it was acquired. If the land is not so utilised the Government shall be entitled to resume the land on payment of one-half of the amount deposited by that person under the said sub-section.

PART IX

Miscellaneous

49. *Consequences of construction of irrigation work.*—(1) Notwithstanding any law, custom or usage to the contrary, whenever the Government construct an irrigation work for utilising the water in a watercourse—

(i) all the water in such watercourse and all tributaries and branches thereof shall become the property of the Government and the Government shall be entitled to utilise and distribute such water in any manner they think fit;

(ii) it shall be lawful for the Government to lead the water for the purpose of irrigation through such watercourse or through any other watercourse with which it is or may be connected, although the bed of either watercourse may not belong to them;

(iii) no person shall, without the sanction of the Collector or any officer authorised by him in that behalf, do anything which obstructs or interferes or is likely to obstruct or interfere with the flow of water in such watercourse or in any other watercourse with which it is or may be connected;

(iv) no person shall, except in accordance with the provisions of this Act, take water for the purpose of irrigation from any such watercourse or any other watercourse with which it is or may be connected.

Explanation.—"Watercourse" means a river, stream, natural channel, lake or natural collection of water and includes any tributary or branch of any river, stream or channel.

(2) The provisions of sub-section (1) shall also apply to any watercourse utilised by the Government for leading water for purposes of irrigation from a tank constructed by them.

50. *Government to carry out works in certain cases and recover the cost thereof.*—Where by custom or agreement, a landholder is bound to maintain any irrigation bund or to carry out any other work in connection with irrigation and such landholder fails to do so, it shall be competent for the Government or any officer authorised by them in this behalf to carry out such work and recover the cost thereof from the defaulting landholder :

Provided that before taking action under this section the Government or the officer so authorised shall give an apportunity to the defaulting landholder to show cause why such action should not be taken.

51. *Compensation.*—(1) Any person who, by reason of the construction of an irrigation work or exercise of the powers conferred on the Government by or under this Act, is deprived of the right which he had of taking water from a watercourse for the purpose of irrigating his land or any other purpose, or suffers material diminution in the supply of water which he has been accustomed to get for any such purpose, shall be entitled to compensation for such deprivation or diminution, as the case may be.

(2) The compensation payable under sub-section (1) shall be assessed—

(i) in case water was being used for the purpose of irrigating a land, at fifteen times the reduction in the net annual profits of the land caused or likely to be caused by such deprivation or diminution ;

(ii) in case water was being used for any other purpose, at twelve times the net annual loss suffered by such deprivation or diminution.

(3) Every claim for compensation shall be preferred in the prescribed form, to the Collector—

(*a*) in the case of deprivation of the right referred to in sub-section (1), within one year from the date on which the irrigation work was completed ;

(*b*) in the case of diminution in the supply of water, within one year from the date thereof.

(4) The Collector shall inquire into the claim and if he finds that compensation is payable, assess the same in accordance with the provisions of sub-section (2). If two or more persons are interested in the amount of the compensation so assessed such amount shall be apportioned in such manner as the Collector may determine.

(5) From every decision of the Collector as regards the amount of compensation or its apportionment, an appeal shall lie to the Board of Revenue. Subject to the decision of the Board of Revenue in cases in which an appeal is preferred under this sub-section, the decision of the Collector shall be final and shall not be liable to be questioned in any court of law.

52. *Power of entry, inspection, etc.*—Any officer of the Revenue Department not below the rank of Revenue Inspector or of the Public Works Department not below the rank of Supervisor may, with or without assistants or workmen, enter upon any land in order to make any inspection, test, examination, survey or measurement for the purpose of executing any work in connection with the construction or maintenance of any irrigation work which vests in the Government.

53. *Offences punishable under the Act.*—Whoever without proper authority does any of the following acts, that is to say,—

(1) injures, alters, enlarges or obstructs any irrigation work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any irrigation work;

(3) interferes with or alters the flow of water in any irrigation work so as to endanger, injure or render less useful, any such work;

(4) being entitled to the use of the irrigation work; causes or occasions waste of the water in such irrigation work or interferes with the authorised distribution of water therefrom or uses such water in an unauthorised manner;

(5) corrupts or fouls the water of any irrigation work so as to render it less fit for the purpose for which it is ordinarily used;

(6) destroys or moves any level mark or water gauge fixed by the authority of a public servant;

(7) contravenes any provision of this Act, or any rule or order made or issued or direction given under this Act,

shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend one hundred rupees, or with both.

54. *Cost of carrying out the work to be recovered from convicted person.*—Where any person is convicted of an offence under section 53, any Irrigation Officer may remove the obstruction or repair the damage or replace or repair the level mark or water gauge in respect of which the conviction has taken place and the cost thereof shall be recoverable from such person as arrears of land revenue under the Revenue Recovery Act for the time being in force.

55. *Suit or application for the issue of an injunction.*—Except where otherwise provided or where an order or decision is declared to be final, all claims in respect of anything done under this Act may be tried by the civil courts; but no such court shall entertain a suit or application for the issue of an injunction to restrain the exercise of any powers conferred by this Act upon the Government or any person or body of persons or any officer except where the result of the exercise of such power is solely to adjudicate the rights between private parties.

56. *Power to arrest without warrant.*—Any person in charge of an irrigation work or the distribution of water from such work may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police Station to be dealt with according to law, any person who, within his views, commits any of the following offences, namely :—

(1) wilfully injures or obstructs any irrigation work; or

(2) without proper authority, interferes with the supply or flow of water in or from any irrigation work.

57. *Period of limitation.*—The period of limitation for an appeal under this Act shall be sixty days from the date of the order appealed against.

58. *Protection of action taken under Act.*—No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done or intended to be done in good faith under this Act or the rules made thereunder.

59. *Bar of action against Government or local authority or cultivators' co-operative society.*—No action shall lie against the Government or a local authority or a cultivators' co-operative society for not complying with the application of the ryots for the construction, extension, repair, improvement or restoration of any irrigation work.

60. *Rate of cess fixed by Government to be final and arrears of cess to bear interest.*—(1) The rate or amount of cess fixed by the Government as payable under this Act shall be final and shall not be liable to be questioned by any civil court.

(2) Arrears of irrigation cess levied under this Act shall bear interest at the rate of four per cent per annum.

61. *Liability to pay cess.*—(1) Notwithstanding anything to the contrary contained in any law for the time being in force or in any contract, the liability to pay the cess levied by the Government or a local authority or a cultivators' co-operative society under this Act in respect of any land shall be on the person in actual occupation or possession of such land at the time such cess or any instalment thereof falls due and the amount so due and the interest thereon shall be a charge on the interest of such person in the said land and such amount shall be recoverable from such person as an arrear of land revenue under the Revenue Recovery Act for the time being in force.

(2) In the case of any cess due to a local authority or a cultivators' co-operative society in respect of any irrigation work, the Collector may, on a certificate signed by the Director or Deputy Director of Local Bodies or by the Registrar or Deputy Registrar of Co-operative Societies, as the case may be, to the effect that such cess is due to the local authority or the cultivators' co-operative society, recover the amount and pay it to the local authority or the cultivators' co-operative society.

62. *Exemption.*—Notwithstanding anything contained in this Act, if the Government are of opinion that the enforcement of the provisions regarding the levy of irrigation cess under this Act will cause hardship or will not be just in the case of any classes or classes of land in any locality, the Government may, by notification, setting out the grounds therefor, exempt for a specified period, either wholly or partially, such class or classes of land from the operation of the said provisions, subject to such conditions, if any, as the Government may deem fit to impose.

63. *Constitution of Irrigation Boards and their functions.*—(1) The Government may, by notification, constitute an Irrigation Board or Boards for any local area for regulating the distribution of water of any irrigation work, for keeping the irrigation work or any part thereof in repair, and for such other purposes as may, from time to time, be prescribed by the Government.

(2) The Board may constitute Branch Boards or Executive Committees from its own members and may delegate to such Branch Board or Executive Committee such of its functions as the Board considers necessary.

(3) The Board shall have the powers of the Punja Special Officer under section 34.

(4) The Government may, by notification, dissolve any Board constituted under sub-section (1).

64. *Delegation of powers.*—The Government may, by notification, authorise any person to exercise any one or more of the powers vested in the Collector by this Act and may in like manner withdraw such authority.

65. *Amendment of Schedule.*—(1) The Government may, by notification, amend, alter or add to or cancel the Schedule.

(2) Any notification issued by the Government under sub-section (1) shall be laid for not less than seven days before the Legislative Assembly as soon as possible after it is issued and shall be subject to such modifications as the Legislative Assembly may make during the session in which it is so laid or the session immediately following.

66. *Power to make rules.*—(1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) determining the area benefited by an irrigation work and the extent of the benefit;

(b) construction, repair and maintenance of tube-wells for the purpose of irrigation works;

(c) estimating the gross produce and prices under section 21;

(d) regulating the proceedings of any officer who under the provisions of this Act is required or empowered to take action in any matter ;

(e) the cases in which and the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act shall be appealable ;

(f) the procedure to be followed by the Government in making inquiries under section 39 or section 40;

(g) the procedure to be followed in appeals under this Act ;

(h) the principles to be followed in determining the amount of compensation and method of payment of such compensation ;

(i) the principles to be followed in apportioning the cost of proceedings before the Collector and on appeal under this Act ;

(j) the manner of service of notices and orders ;

(k) the number of elected and nominated members for each Irrigation Board, the term of office of the members of the Board, the qualification and registration of electors, the time and mode of election and any other matter connected with the election, dissolution or supersession of the Boards and the consequences of such dissolution or supersession, the powers and duties of the Board, the conduct of business at meetings of the Board, the appointment and punishment of the servants of the Board, the relation between two or more Boards and the constitution of the Branch Boards and Executive Committees of the Board under section 63 ; and

(l) all matters expressly required or allowed by this Act to be prescribed.

(3) All rules made under the provisions of this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

67. *Repeal.*—The Travancore-Cochin Irrigation Act, 1956, the Madras Irrigation Cess Act, 1865, the Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943, the Madras Irrigation (Voluntary Cess) Act, 1942, the Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947, and the Madras Irrigation (Levy of Betterment Contribution) Act, 1955, in so far as they apply to any part of the State of Kerala, are hereby repealed.

68. *Validation of the levy of irrigation cess and certain actions taken.*—(1) The validity of any steps taken in connection with the construction of any irrigation work or of the levy of any irrigation cess made or hereafter to be made under the Travancore-Cochin Irrigation Act, 1956, repealed by this Act or under the Cochin

Irrigation Act VIII of 1111, repealed by the said Travancore-Cochin Irrigation Act, shall not be called in question in any court of law on the ground that in sanctioning the construction of or in constructing the irrigation work benefiting the lands on which the cess was or is to be levied, the procedure laid down therefor was not followed or that the list of irrigation works was not published as was required under the law then in force and any work started may be continued and completed and any such cess may be levied and recovered, and any cess already levied may be recovered, as arrears of land revenue under the Travancore-Cochin Revenue Recovery Act, 1951.

(2) Any action taken for the acquisition of land for any irrigation work under section 22 of the Cochin Irrigation Act, VIII of 1111 repealed by the Travancore-Cochin Irrigation Act, 1956, may be continued under the provisions of section 48 of this Act from the stage at which it was pending at the commencement of this Act and the validity of any action taken or order issued after the repeal of the said Cochin Irrigation Act and before the commencement of this Act shall not be called in question in any court of law.

69. *Continuance of steps taken for acquisition of private irrigation works.*—(1) Subject to the provisions of sub-section (2), steps taken for the acquisition of any private irrigation work under the Land Acquisition Act, 1894 (Central Act 1 of 1894) or the Land Acquisition Act (Cochin Act II of 1070) before the commencement of this Act may be continued under the provisions of Part VIII of this Act and for this purpose—

(i) a notification published under section 4 of the said Central Act or section 3 of the said Cochin Act in respect of a private irrigation work shall be deemed to be a notification published under sub-section (1) of section 38 of this Act and all objections made to the Collector under section 5A of the said Central Act or section 4A of the said Cochin Act shall be deemed to be objections preferred under sub-section (1) of section 38 of this Act; and

(ii) a declaration in respect of a private irrigation work published under section 6 of the said Central Act or section 5 of the said Cochin Act shall be deemed to be a notification published under sub-section (4) of section 38 of this Act and the private irrigation work shall be deemed to have vested absolutely in the Government free from all encumbrances, under sub-section (6) of the said section, with effect from the commencement of this Act.

(2) The provisions of sub-section (1) shall not apply to cases where an award has been passed for the acquisition of a private irrigation work before the commencement of this Act.

SCHEDULE

Part I

[See sections 4 (5) and 5 (3) and (4).]

Rates of Cess on areas benefited by Petty and Minor Irrigation Works.

Category of land	*Rate of cess.*
1. Lands on which one paddy crop alone is raised.	Rs. 3 per acre.
2. Lands on which two or more paddy crops are raised.	Rs. 5 per acre.
3. Lands on which sugar cane, betel, plantain, turmeric or elephant-yam is cultivated by use of the irrigation water.	Rs. 5 per acre.
4. Lands in which any other crop which requires water for more than six months in an year is raised.	Rs. 5 per acre.

Part II

(See section 13).

Rates of Cess on lands benefited by Major Irrigation Works.

Category of land benefited.	*Rate of cess.*
(a) Lands already registered as single crop wet lands and on which two or more paddy crops could be raised on account of the irrigation.	Rs. 7·50 per acre.
(b) Other lands already registered as wet lands.	Rs. 5·00 per acre.
(c) Lands made fit for cultivation and on which one paddy crop could be raised on account of irrigation.	Rs. 7·50 per acre.
(d) Lands made fit for cultivation and on which two or more paddy crops could be raised on account of irrigation.	Rs. 12·50 per acre.
(e) Other lands benefited.	At such rates per acre not exceeding Rs. 10.00 as may be fixed by the Government from time to time:

Provided that in cases where irrigation water is availed of by bailing or by means of mechanical contrivances the water cess leviable shall be at fifty per cent of the rate specified in clause (a) or clause (b) or clause (c) or clause (d), as the case may be:

Provided further that in cases where irrigation water is supplied from a major irrigation work by using lift pumps or other mechanical contrivances the water cess leviable shall be at fifty per cent of the rate specified in clause (a) or clause (b) or clause (c) or clause (d), as the case may be, plus the rate specified in Part IV of the Schedule:

Provided also that in the case of lands falling under clause (c) and clause (d) the rates at which cess may be levied for the first three years after the lands have been made fit for cultivation shall be fifty per cent of the rates specified in those clauses.

PART III

Rates of cess on areas benefited by lift Irrigation Works undertaken by Local Authorities or Cultivators' Co-operative Societies.

[See sections 17(2) and 19(2)]

	Rate of cess.
First crop.	Rs. 5 per acre.
Second crop.	Rs. 15 per acre.
Third crop.	Rs. 20 per acre.

PART IV

Rates of Cess on areas benefited by lift Irrigation Works undertaken by the Government.

(See section 18 (4)).

	Rate of cess.
First crop.	Rs. 5 per acre.
Second crop.	Rs. 10 per acre.
Third crop.	Rs. 15 per acre:

Provided that in cases where water has been supplied for three crops, the rate of cess shall be Rs. 25 per acre for all the three crops together.

STATEMENT OF OBJECTS AND REASONS

At present, the law in the State relating to the construction, repair and maintenance of irrigation works, the conservation and distribution of water for purposes of irrigation and the levy of betterment contribution and water cess is contained in the following enactments:-

1. The Travancore-Cochin Irrigation Act, 1956;
2. The Madras Irrigation cess Act, 1865;

3. The Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947 ;
4. The Madras Irrigation (Voluntary Cess) Act, 1942 ;
5. The Madras Irrigation (Levy of Betterment Contribution) Act, 1955; and
6. The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943.

Of these enactments, the Travancore-Cochin Irrigation Act is in force in the Travancore-Cochin area of the State and the other Acts are in force in the Malabar area of the State. It is considered necessary to have a uniform law applicable throughout the State. The Bill is designed to achieve this object. The Bill is more or less modelled on the lines of the Travancore-Cochin Act.

Opportunity has been taken to provide a special chapter for lift irrigation works in the Bill. In the Travancore-Cochin Act, lift irrigation works are classed as major irrigation works while in the enactments in force in the Malabar area there is no specific mention of lift irrigation. The Bill purports to divide lift irrigation schemes into three categories, viz., (1) those benefiting areas of 10 acres and above but not exceeding 50 acres, (2) those benefiting areas over 50 acres but not exceeding 200 acres, and (3) those benefiting above 200 acres. The responsibility for works of category No. (3) alone devolves upon the Government. Works of category No. (2) are left to be undertaken by cultivators' co-operative societies or local authorities. Works of category No. (1) are to be done by cultivators themselves. Provision is made for the grant of subsidy in such cases.

Provision has been made in the Bill for the levy of betterment contribution in respect of all irrigation works other than lift irrigation works, undertaken by the Government after 1-1-1947 and the cost in respect of which exceeds Rs. 30,000.

The Bill also makes certain special provisions empowering the Collector, Punja Special Officer or any officer specially authorised for the purpose to arrange for taking up any work connected with irrigation or drainage for the purpose of agriculture which by local custom should be done by the joint labour or cost of the proprietors of the lands benefited, in the event of their failure to come to an agreement. Provision has also been made in the Bill for the acquisition and requisitioning of irrigation works, acquisition of land for private irrigation works maintenance of field channels, declarations of flood zones, etc.

FINANCIAL MEMORANDUM.

The provisions in the Bill which involve additional financial commitment are those relating to the grant or loans and subsidies for petty, minor and lift irrigation works conducted by non-Government agencies and to the acquisition and requisitioning of private irrigation works. The amount required for the grant

of loans and subsidies cannot now be estimated. This will depend upon the number of private works for which financial assistance will have to be given from time to time. However, a provision of Rs. 1 lakh for loans and a provision of Rs. 1 lakh for subsidies have been made in the budget for 1958-59. Regarding acquisition and requisitioning of private irrigation works also, it is not now possible to make a forecast of the probable expenditure.

Besides, expenditure will also be involved towards the appointment of irrigation officers, construction, repair and maintenance of major and lift irrigation works, constitution of irrigation boards, etc. Provisions for appointment of irrigation officers, etc., are already contained in the existing Acts and no additional expenditure will be involved for these items when the bill becomes law and is put into operation.

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